

# Senate Study Bill 3222 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON FRAISE)

## A BILL FOR

1 An Act providing separation distance requirements between  
2 confinement feeding operation structures and public parks,  
3 making penalties applicable, and including effective date  
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 459.202, subsection 3, unnumbered  
2 paragraph 1, Code 2009, is amended to read as follows:

3 a. Except as provided in paragraph "b" and sections 459.203,  
4 459.205, and 459.206, this subsection applies to confinement  
5 feeding operation structures constructed on or after May  
6 31, 1995, but prior to March 1, 2003; to the expansion of  
7 confinement feeding operation structures constructed on  
8 or after May 31, 1995, but prior to March 1, 2003; and to  
9 the expansion of confinement feeding operation structures  
10 constructed prior to May 31, 1995.

11 Sec. 2. Section 459.202, subsection 3, Code 2009, is amended  
12 by adding the following new paragraph:

13 NEW PARAGRAPH. b. Except as provided in sections 459.203,  
14 459.205, and 459.206, a confinement feeding operation structure  
15 constructed or expanded as provided in paragraph "a" shall not  
16 be expanded on or after the effective date of this Act within  
17 five thousand two hundred eighty feet from a public park owned  
18 or managed by the department, including under chapter 461A, or  
19 by a political subdivision.

20 Sec. 3. Section 459.202, subsection 5, unnumbered paragraph  
21 1, Code 2009, is amended to read as follows:

22 a. Except as provided in paragraph "b" and sections 459.203,  
23 459.205, and 459.206, this subsection applies to confinement  
24 feeding operation structures constructed on or after March 1,  
25 2003, and to the expansion of confinement feeding operation  
26 structures constructed on or after March 1, 2003.

27 Sec. 4. Section 459.202, subsection 5, Code 2009, is amended  
28 by adding the following new paragraph:

29 NEW PARAGRAPH. b. Except as provided in sections 459.203,  
30 459.205, and 459.206, all of the following apply:

31 (1) A confinement feeding operation structure constructed  
32 or expanded on or after March 1, 2003, but prior to the  
33 effective date of this Act, shall not be expanded on or after  
34 the effective date of this Act, within five thousand two  
35 hundred eighty feet from a public park owned or managed by the

1 department, including under chapter 461A, or by a political  
2 subdivision.

3 (2) A confinement feeding operation structure shall not  
4 be constructed or expanded on or after the effective date of  
5 this Act, within five thousand two hundred eighty feet from a  
6 public park owned or managed by the department, including under  
7 chapter 461A, or by a political subdivision.

8 Sec. 5. Section 459.203, subsection 1, Code 2009, is amended  
9 to read as follows:

10 1. a. For a confinement feeding operation constructed  
11 prior to January 1, 1999, any construction or expansion of  
12 a confinement feeding operation structure complies with the  
13 distance requirements applying to that structure as provided in  
14 section 459.202, subsections 1 and 3. However, a confinement  
15 feeding operation structure shall not be constructed or  
16 expanded within five thousand two hundred eighty feet from a  
17 public park owned or managed by the department, including under  
18 chapter 461A, or by a political subdivision.

19 b. For a confinement feeding operation constructed on  
20 or after January 1, 1999, but prior to March 1, 2003, any  
21 construction or expansion of a confinement feeding operation  
22 structure complies with the distance requirements applying to  
23 that structure as provided in section 459.202, subsections 2  
24 and 3. However, a confinement feeding operation structure  
25 shall not be constructed or expanded within five thousand two  
26 hundred eighty feet from a public park owned or managed by the  
27 department, including under chapter 461A, or by a political  
28 subdivision.

29 c. For a confinement feeding operation constructed on  
30 or after March 1, 2003, any construction or expansion of a  
31 confinement feeding operation structure complies with the  
32 distance requirements applying to that structure as provided in  
33 section 459.202, subsections 4 and 5. A confinement feeding  
34 operation structure shall not be constructed or expanded within  
35 five thousand two hundred eighty feet from a public park owned

1 or managed by the department, including under chapter 461A, or  
2 by a political subdivision.

3     Sec. 6. EFFECTIVE UPON ENACTMENT. This Act, being deemed of  
4 immediate importance, takes effect upon enactment.

5                                   EXPLANATION

6     BACKGROUND. This bill amends provisions in Code chapter 459  
7 regulating confinement feeding operations and their associated  
8 structures (confinement buildings, manure storage structures,  
9 dry bedded confinement funding operation structures, and egg  
10 washwater storage structures) by the department of natural  
11 resources.

12     Code section 459.202 provides various separation distance  
13 requirements between confinement feeding operation structures  
14 and homes, schools, businesses, churches, and public use areas  
15 which includes cemeteries and portions of public parks where  
16 persons congregate. The amount of the separation distance  
17 required depends upon: (1) when the confinement feeding  
18 operation structure was constructed or expanded, and (2) the  
19 size of the confinement feeding operation.

20     INCREASED SEPARATION DISTANCES FOR PUBLIC PARKS. The bill  
21 requires a special one-mile separation between a confinement  
22 feeding operation structure and a public park owned or managed  
23 by the department or a political subdivision. It applies to  
24 the expansion of an existing confinement feeding operation  
25 structure and the construction of a new confinement feeding  
26 operation structure without regard to size except for small  
27 animal feeding operations.

28     EXCEPTIONS. Code section 459.203 provides that a  
29 confinement feeding operation constructed or expanded prior  
30 to the date that a distance requirement became effective  
31 may continue to operate regardless of the new distance  
32 requirement, and under certain circumstances may expand. One  
33 condition specifies that a confinement feeding operation may  
34 expand if its structures continue to meet the separation  
35 distance requirements applicable when the confinement feeding

1 operation was constructed. The bill overrides this exception,  
2 by providing that a confinement feeding operation cannot  
3 expand within the one-mile limit regardless of the date of  
4 construction or expansion.

5 Code section 459.205 provides a number of general exceptions  
6 to the separation distance requirements, including when: (1)  
7 the confinement feeding operation qualifies as a small animal  
8 feeding operation (having an animal unit capacity of 500 or  
9 fewer animal units); (2) the neighboring titleholder benefiting  
10 from separation distance executes a written waiver with the  
11 titleholder of the land where the confinement feeding operation  
12 structure is located; and (3) the object or location benefiting  
13 from the separation distance requirement encroaches within  
14 the separation distance. These exceptions would apply to the  
15 special separation distance requirement for public parks.

16 Code section 459.206 provides an exception from the  
17 separation distance requirements for a qualified confinement  
18 feeding operation structure that treats manure using aeration.  
19 The exception would apply to the special separation distance  
20 requirement for public parks.

21 APPLICABLE PENALTIES. According to Code section 459.602,  
22 a person who violates provisions relating to air quality  
23 is subject to a civil penalty as provided in Code section  
24 455B.109, which authorizes the environmental protection  
25 commission to establish penalty amounts according to a schedule  
26 not to exceed \$10,000.

27 EFFECTIVE DATE. The bill takes effect upon enactment.